

105TH CONGRESS
1ST SESSION

S. 1045

To prohibit discrimination in employment on the basis of genetic information,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 1997

Mr. DASCHLE introduced the following bill; which was read twice and referred
to the Committee on Labor and Human Resources

A BILL

To prohibit discrimination in employment on the basis of
genetic information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The Genetic Justice
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) EMPLOYEE; EMPLOYER; EMPLOYMENT
9 AGENCY; LABOR ORGANIZATION; MEMBER.—The
10 terms “employee”, “employer”, “employment agen-

cy”, and “labor organization” have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e). The terms “employee” and “member” include an applicant for employment and an applicant for membership in a labor organization, respectively.

(2) GENETIC INFORMATION.—The term “genetic information”, used with respect to an individual, means information (including information regarding carrier status and information derived from a laboratory test that identifies mutations in specific genes or chromosomes, a physical medical examination, a family history, and a direct analysis of genes or chromosomes) about a gene, gene product, or inherited characteristic that derives from the individual or a family member of the individual.

(3) GENETIC SERVICES.—The term “genetic services” means genetic evaluation, genetic testing, genetic counseling, and related services.

SEC. 3. EMPLOYER PRACTICES.

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms,

1 conditions, or privileges of employment of the indi-
2 vidual, because of genetic information with respect
3 to the individual, including an inquiry by the individ-
4 ual regarding genetic services;

5 (2) to limit, segregate, or classify the employees
6 of the employer in any way that would deprive or
7 tend to deprive any individual of employment oppor-
8 tunities or otherwise adversely affect the status of
9 the individual as an employee, because of genetic in-
10 formation with respect to the individual, including
11 an inquiry by the individual regarding genetic serv-
12 ices; or

13 (3) to request or require the collection for the
14 employer or disclosure to the employer of genetic in-
15 formation with respect to an individual unless the
16 employer shows that—

17 (A) the employer made the request or re-
18 quirement after making an offer of employment
19 to the individual;

20 (B) the information is job-related for the
21 position in question and consistent with busi-
22 ness necessity; and

23 (C) the knowing and voluntary written
24 consent of the individual has been obtained for

1 the request or requirement, and the collection
2 or disclosure.

3 **SEC. 4. EMPLOYMENT AGENCY PRACTICES.**

4 It shall be an unlawful employment practice for an
5 employment agency to fail or refuse to refer for employ-
6 ment, or otherwise to discriminate against, any individual
7 because of genetic information with respect to the individ-
8 ual, including an inquiry by the individual regarding ge-
9 netic services.

10 **SEC. 5. LABOR ORGANIZATION PRACTICES.**

11 It shall be an unlawful employment practice for a
12 labor organization—

13 (1) to exclude or to expel from the membership
14 of the organization, or otherwise to discriminate
15 against, any individual because of genetic informa-
16 tion with respect to the individual, including an in-
17 quiry by the individual regarding genetic services;

18 (2) to limit, segregate, or classify the members
19 of the organization, or to classify or fail or refuse to
20 refer for employment any individual, in any way that
21 would deprive or tend to deprive any individual of
22 employment opportunities, or would limit the em-
23 ployment opportunities or otherwise adversely affect
24 the status of the individual as an employee, because
25 of genetic information with respect to the individual,

1 including an inquiry by the individual regarding ge-
2 netic services; or

3 (3) to cause or attempt to cause an employer to
4 discriminate against an individual in violation of this
5 section.

6 **SEC. 6. TRAINING PROGRAMS.**

7 It shall be an unlawful employment practice for any
8 employer, labor organization, or joint labor-management
9 committee controlling apprenticeship or other training or
10 retraining, including on-the-job training programs, to dis-
11 criminate against any individual because of genetic infor-
12 mation with respect to the individual, including an inquiry
13 by the individual regarding genetic services, in admission
14 to, or employment in, any program established to provide
15 apprenticeship or other training or retraining.

16 **SEC. 7. CONFIDENTIALITY.**

17 If an employer, labor organization, or employment
18 agency possesses genetic information about an employee,
19 the employer, labor organization, or employment agency—

20 (1) shall maintain the information on separate
21 forms and in separate medical files, and treat the in-
22 formation as a confidential medical record, except
23 that, if the employee provides knowing and voluntary
24 written consent—

1 (A) the employer may inform a supervisor
 2 or manager of the employee regarding a nec-
 3 essary restriction on the work or duties of, or
 4 a necessary accommodation for, the employee;

5 (B) the employer may inform first aid and
 6 safety personnel (when appropriate, within the
 7 meaning of section 102(d)(3)(B)(ii) of the
 8 Americans with Disabilities Act of 1990 (42
 9 U.S.C. 12112(d)(3)(B)(ii))); and

10 (C) the employer shall provide relevant in-
 11 formation to a government official investigating
 12 compliance with this Act, on request;

13 (2) shall disclose the information to the em-
 14 ployee at the request of the employee; and

15 (3) shall not otherwise disclose the information.

16 **SEC. 8. CIVIL ACTION.**

17 (a) IN GENERAL.—An employee or member of a labor
 18 organization may bring an action in a Federal or State
 19 court of competent jurisdiction against an employer, em-
 20 ployment agency, labor organization, or joint labor-man-
 21 agement committee who violates this Act.

22 (b) CLASS ACTIONS.—The employee or member may
 23 bring the action for and in behalf of—

24 (1) the employee or member; or

1 (2) the employee or member, and other employ-
2 ees or members of the labor organization who are
3 similarly situated.

4 (c) REMEDY.—The court in which the action is
5 brought may award any appropriate legal or equitable re-
6 lief.

7 **SEC. 9. CONSTRUCTION.**

8 Nothing in this Act shall be construed to limit the
9 rights or protections of an employee or member of a labor
10 organization under the Americans with Disabilities Act of
11 1990 (42 U.S.C. 12101 et seq.).

